

APPROVED: Meeting No. 19-91

ATTEST: *Sharon A. Gran*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 9-91

April 8, 1991

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on April 8, 1991, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Viola D. Hovsepien

Councilmember James T. Marrinan

ABSENT

Councilmember David Robbins (Travel Leave)

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Re: City Manager's Report

1. Some time ago, we authorized the concept of a new relationship with the National Chamber Orchestra designed to house the Orchestra at the F. Scott Fitzgerald Theatre. Staff is finalizing a contract to this effect which hopefully will be ready for Mayor and Council review at the next general session.

2. On Thursday of this week, at 7:30 p.m., the Mayor and Council will be meeting in worksession with the group which has been reviewing the City's proposed animal control ordinance. The group is working tonight to finalize their recommendations to the Mayor and Council.

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3. Next Monday, April 15, there will be a number of public hearings held. Additionally, at 7:00 p.m., there will be a presentation of the recommended FY92 City operating budget and FY92-97 proposed capital improvements program.

4. The City commenced its yard waste recycling program on April 1, which involves transporting to a composting facility. Citywide, the yard waste is being picked up separately in biodegradable bags or easily emptied containers. The first week's experience has been very good and this new program is going along well.

5. The first major public informational meeting on the Cabin John Lake project will be held on April 30, at 7:30 p.m. We anticipate bringing all interested persons up-to-date on the project at that time.

Mayor Duncan commented that there would be discussion concerning the stormwater management problems the City has to solve and a listing of all alternatives available to the Lake. The City Manager noted that these items would also be previewed in the Cabin John Lake information sheet prior to the meeting.

Re: Proclamation declaring the
month of April as **FAIR HOUSING**
MONTH in Rockville

Proclamation No. 3-91

By a unanimous vote of the Mayor and Council, the month of April was declared "Fair Housing Month" in Rockville. Councilmember Hovsepian read the Proclamation, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council. Richard Allen, President, and Mary Burkey, Vice President of Suburban Maryland Fair Housing, Inc. accepted the Proclamation.

Mr. Allen referenced the recent amendments to the City's human rights law to include two new protected classes, sexual orientation and presence of children, noting these are significant developments locally. He presented the Mayor and Council with three posters developed by the National Fair Housing Alliance.

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Re: Proclamation declaring the week
of April 7-13, 1991, as
BUILDING SAFETY WEEK in
Rockville

Proclamation No. 4-91

By a unanimous vote of the Mayor and Council, the week of April 7-13, 1991, was declared "Building Safety Week" in Rockville. Councilmember Coyle read the Proclamation, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council. Michael Rose, President of the Suburban Maryland Building Industry Association and Linda MacDermid, Superintendent of Licenses and Inspection for the City of Rockville, accepted the Proclamation. Mr. Rose commented that it is appropriate that the City of Rockville acknowledge building safety and fair housing all in the same night, noting that his association has always fully supported fair housing.

Re: Presentation of Annual Report
of Rockville Emergency
Assistance Program (REAP)

Rev. Mansfield Kaseman, Executive Director of Community Ministries of Rockville and Rosalyn Thompson, Director of Emergency Assistance for Community Ministries, briefed the Mayor and Council on the current status of the Rockville Emergency Assistance Program. In 1982, the Mayor and Council made a promise that no one in the City should go hungry, without shelter or appropriate health care, and, according to Rev. Kaseman, that promise has been fulfilled. He applauded the Mayor and Council's commitment to the welfare of their community. The Rockville Emergency Assistance Program (REAP) has worked well and deserves increased financial support.

Ms. Thompson provided statistics regarding the increased caseload and the additional resources expended during the last few years. Because the REAP program provides assistance only when all other resources have been exhausted, these increases speak to the need in the City.

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The current maximum level of assistance is \$500 per year, and Rev. Kaseman noted that they would like to raise the ceiling to \$750, primarily to avoid eviction situations. He further indicated that it is harder and harder to expect private sector support, and the Grant Assistance Program (GAP), dependent upon private sector support, is struggling and running dry.

As to the nature of cases, individuals versus families, Ms. Thompson informed the Mayor and Council that there have been more requests for assistance this year from two-parent households.

Mayor Duncan commented that the City Manager's budget would reflect the request for the REAP Program and noted that there are no administrative costs to the City as a result of this program.

Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. David Thomas, 818 Brice Road, referenced the maps on display for the stormwater management presentation and asked if scale drawings of these maps could be made available for those individuals on the Cabin John Lake mailing list and any other interested parties.

Mayor Duncan responded that Rockville Reports would make reference to copies being available at City Hall.

2. Stanley Klein, 7 Lorre Court, commented that he was pleased that the Mayor and Council rejected the request to place the question of "election by district" on the ballot as an advisory referendum.

3. Barbara Ewing, 502 Blandsford Street, asked a number of questions regarding items mentioned during the presentation of the Proclamations and during the Rockville Emergency Assistance Program presentation.

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There being no other citizens wishing to be heard, the Mayor closed the Citizens' Forum portion of the meeting.

Re: Appointments

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Robert Silvanik was reappointed to a two-year term on the Advisory Commission on Public Education.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Sally Roy and Martin Trusty were reappointed to two-year terms on the Alternative Community Service Commission.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, James Wolff was appointed to a four-year term on the Human Rights Commission.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Donald Bokelman and Ira Walters were reappointed to one-year terms on the Rockville Seniors, Inc.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Renee Bondaroff and Alessandra Eva were appointed to the West End Traffic Management Advisory Group. Mayor Duncan noted that this Group has met several times and is well underway with its work plan; therefore, these are the last appointments that will be made to this Group.

Re: Approval of Minutes

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, the minutes of Meeting No. 8-91 (March 25, 1991) were approved, as amended.

Re: Consent Agenda

Mayor Duncan requested that Item A be removed from the Consent Agenda, Councilmember Coyle requested that Item D be removed, and Councilmember Hovsepian requested that Item G be removed. Upon motion of Councilmember Marrinan, duly seconded

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and unanimously passed, the following Consent Agenda Items were approved:

- B. Award of Bid No. 41-91 for purchase of refuse packer trucks for \$101,322.24 as follows: to the low bidder, Dovell & Williams, Inc. for two 35,000 pound GVWR truck chassis for the low bid of \$63,882.24; and to the low bidder, Ingold's Hico, Inc. for two refuse compactor bodies for the low bid of \$37,440.

This purchase will provide two replacement refuse packer trucks within the budget appropriation of \$102,000.

- C. Introduction of Ordinance to amend Chapter 8, "Elections" of the Rockville City Code so as to provide for same day voter registration for City elections; to provide that a political committee or other organization may designate an affiliated political committee which would be subject to the campaign reporting requirements of the Code; to amend the provisions concerning limit of contributions to change the current limit from \$1,000 to \$500 for any single candidate and the total which may be contributed by an individual or organization in any election cycle from \$2,500 to \$1,000; and to schedule a public hearing on the proposed amendments.

- E. Introduction of Ordinance to amend Chapter 17, "Purchasing" of the Rockville City Code so as to increase from \$250 to \$1,000 the amount of awards required to be in writing and to increase the amount of expenditures which may be approved by department heads from \$250 up to \$1,000.

- F. Receipt of February financial reports summarizing financial operations of the City of Rockville for the period from July 1, 1990 through February 28, 1991.

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- H. Adoption of Resolution No. 6-91, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, to establish a Civic Center Mansion Subcommittee to oversee implementation of the Civic Center Master Plan.

The subcommittee shall report to the Recreation and Park Advisory Board and shall be comprised of five voting members, two representatives of the Recreation and Park Advisory Board, one representative from the Historic District Commission, one representative from the Cultural Arts Commission and one Civic Center Mansion Docent.

Re: Award of Bid No. 37-91 to low bidder, Lanham Ford, Inc., in the amount of \$32,590 for the purchase of two 15-passenger vans.

This purchase will provide two replacement vehicles, one for Community Services and one for Recreation and Parks. The budgeted amount for this purchase is \$37,000.

Mayor Duncan had asked to remove this item (A) from the Consent Agenda in order to inquire as to how this purchase fits in with the recently adopted fleet management policy. The City Manager responded that both vehicles are six years old, one with 48,000 miles and the other with 65,000 miles. It was felt that the vehicle with 65,000 miles was close enough to the guideline of 70,000 miles for replacement. The vehicle with 48,000 miles has been taken out of service frequently due to mechanical problems. Mayor Duncan requested that, with future requests for approval of vehicle purchases, an explanation be provided as to how the guidelines apply.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Bid No. 37-91 was awarded to low bidder, Lanham Ford, Inc., in the amount of \$32,590 for

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the purchase of two vehicles.

Re: Approval of rules and regulations governing hearings on complaints held by the Human Rights Commission pursuant to Section 11-59 of the Rockville City Code.

Chapter 11, "Human Rights" of the Rockville City Code provides that the Human Rights Commission may adopt and publish rules and regulations for the orderly conduct of its business upon the approval of the Mayor and Council. Councilmember Coyle commented that he was pleased to see these rules and regulations. He had requested that this item (D) be removed from the Consent Agenda in order to make suggestions regarding procedural issues. It was agreed that approval would be deferred until the meeting of April 22, to give the City Attorney an opportunity to review Councilmember Coyle's suggestions.

Re: Approval of the City Dependent Care Assistance Plan and Healthcare Flexible Spending Arrangement Plans for calendar year 1991.

The Internal Revenue Service requires that annual plan documents be developed for these programs which enable employees to save on taxes by transferring certain payments for benefits to the City in exchange for salary reductions of equal amounts.

Councilmember Hovsepian had requested that this item (G) be removed from the Consent Agenda so that she could commend staff for preparing and implementing this flexible spending arrangement. The Mayor and Council approved the Plans for calendar year 1991.

Re: Adoption of Ordinance to amend Chapter 5, entitled "Buildings and Building Regulations," Article V, so as to adopt the 1990 edition of the BOCA

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National Building Code, with
certain technical deletions,
additions and changes.

Ordinance No. 8-91

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Ordinance No. 8-91, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted so as to adopt the 1990 edition of the BOCA National Building Code with certain technical deletions, additions and changes.

Re: Adoption of Ordinance to amend
Chapter 5, entitled "Buildings
and Building Regulations,"
Article VII, so as to adopt
the 1990 edition of the
National Electrical Code, with
certain technical deletions,
additions and changes.

Ordinance No. 9-91

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Ordinance No. 9-91, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted so as to adopt the 1990 edition of the National Electrical Code with certain technical deletions, additions and changes.

Re: Adoption of Ordinance to amend
Chapter 5, entitled "Buildings
and Building Regulations,"
Article XI, so as to adopt the
1990 edition of the BOCA
National Plumbing Code, with
certain technical deletions,
additions and changes.

Ordinance No. 10-91

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ordinance No. 10-91, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted so as to adopt the 1990 edition of the National Plumbing Code with certain technical deletions, additions and changes.

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Re: Adoption of Ordinance to amend Chapter 5, entitled "Buildings and Building Regulations," Article X, so as to adopt the 1990 edition of the BOCA National Mechanical Code, with certain technical deletions, additions and changes.

Ordinance No. 11-91

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ordinance No. 11-91, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted so as to adopt the 1990 edition of the National Mechanical Code with certain technical deletions, additions and changes.

Re: Adoption of Ordinance to amend Chapter 5, entitled "Buildings and Building Regulations," Article VIII, so as to adopt the 1990 edition of the BOCA National Energy Conservation Code.

Ordinance No. 12-91

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Ordinance No. 12-91, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted so as to adopt the 1990 edition of the National Energy Conservation Code with certain technical deletions, additions and changes.

Re: Adoption of Ordinance to amend Chapter 5, entitled "Buildings and Building Regulations," Article IX, so as to amend the Gas Code, with certain changes to referenced standards.

Ordinance No. 13-91

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Ordinance No. 13-91, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted so as to amend the Gas Code, with certain changes to referenced standards.

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Re: Discussion and Instructions to Staff - Review and referral to Planning Commission for further consideration of a text amendment to add group homes as a permitted and special exception use in Chapter 25, "Zoning and Planning" of the Rockville City Code.

Mayor Duncan stated that the revised text amendment addressed all of his earlier concerns. Councilmember Coyle inquired as to how this text amendment relates to the current law which allows group homes for up to five unrelated persons. The City Attorney advised that this text amendment is applicable only to group homes for individuals with special needs; the City law remains intact insofar as other group homes for up to five unrelated persons are concerned. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, staff was instructed to refer to the Planning Commission the text amendment to allow group homes for up to eight individuals and to provide for group homes of nine to 14 persons by special exception. Following review by the Planning Commission, this text amendment would be scheduled for a public hearing before the Mayor and Council.

Re: Staff presentation on stormwater management (SWM) program and Maryvale II SWM facility.

Susan Straus, Senior Civil Engineer, presented the following information concerning stormwater management (SWM):

The City is divided into three main watersheds: Watts Branch, Cabin John and Rock Creek. The goal of SWM is to control increases in excessive overland water runoff and the increased pollutant load caused by development and to keep streams in their natural state.

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Prior to SWM, runoff was collected quickly through a series of catch basins and piped directly into the streams. In order to avoid severe damage to stream beds, the City adopted SWM and sediment control laws in 1978.

The City's SWM laws are mandated by state law and federal (NPDES) regulations. The State has delegated SWM to the City and reviews the program periodically. There are currently 128 on-site SWM systems which are privately owned and maintained systems that generally serve one lot. Plans for on-site stormwater management are reviewed and approved by Public Works. Required easements and maintenance agreements are reviewed by the City Attorney's Office. The City performs inspections annually to ensure that these facilities are functioning properly.

Regarding regional SWM, public facilities are installed on a watershed basis. There are 38 public facilities on line, with an additional 12 facilities in the CIP and another 10 facilities planned beyond the six years. The three most frequent types of regional facilities are dry ponds, wet ponds and extended detention.

The City's SWM program, developed in the late 1970's, recognized the many benefits of the regional approach over the on-site or piecemeal approach. The legal obligations center on items such as preventing downstream property owners from being adversely affected by erosion, siltation or increased flows.

The facilities were designed to minimize impacts to wetlands, and emphasis will continue to be placed on locations that have little or no wetlands impacts. Maintenance of these facilities is routinely handled by the Department of Parks, and structural repairs are made by the Department of Public Works, as needed. The source of funding for the regional program is developer contributions; no tax monies are involved.

There is a lengthy waiver process. The developer applies for waiver of on-site SWM, and there are three levels of review: staff review, a SWM committee review and City Manager review prior to presentation to the Mayor and Council for approval.

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The contribution is required of the developer prior to a building permit being issued.

Regarding Maryvale II, 20 waivers have been granted to date for this facility which serves part of the Town Center where on-site SWM would be very difficult to achieve. An alternative analysis was performed at the request of surrounding neighborhoods; however, there is no site available upstream, and moving downstream would significantly increase the wetlands impact. Maryvale II is the best site available to adequately provide SWM benefits. This project will be put out for bid by the end of April with a contract anticipated in June.

The goals of SWM are:

- o maintain characteristics of stormwater run-off after development;
- o provide retrofit benefits of quantity and quality control for areas developed prior to City's SWM laws; and
- o review all SWM plans to ensure compliance with City, state and federal laws and enforce City SWM laws.

With respect to regional versus private SWM, the advantages are:

- o economies of scale in terms of smaller portion of land required and reduced capital and maintenance costs;
- o larger facilities not as prone to failure; and
- o watershed control provides coordinated benefits to stream valleys.

Councilmember Hovsepian was advised that Maryvale II would be a dry pond, and the existing ballfield would be relocated on the site.

The term "developer" was clarified to make note of the fact that it would include any person that builds in Rockville, including an individual building his own home. There are many waivers for small builders.

Councilmember Coyle asked how the costs to developers are determined and if the City goes back and assigns higher costs later in recognition of the increased cost

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of controlling and treating stormwater. Once the waiver is granted and the contribution assessed, there is no increase. The current fee is \$40,000 per impervious acre, and it has been determined that this is a good way to track and charge for SWM.

Councilmember Coyle noted that off-site SWM often does a better job than on-site and asked how a judgment is made that one is better than the other. Staff noted that size of the development is crucial. The options for waiver versus on-site for large developments are examined by looking at the exact site to determine if it would cause a flooding problem in the stream by holding back the flow. Staff analyzes each case to assure that the proper tests are met.

With new requirements of the State regarding control and treatment of stormwater, increased costs are built into the developer's share. The current rates take into account wetlands impacts. Councilmember Coyle referenced the development upcounty and questioned its impact on the City's SWM. Staff noted that because the City is located at the headwaters of the three watersheds, this is not an issue.

Councilmember Coyle asked how much stormwater comes from outside the City and staff responded that it is perhaps up to 20%. As to how Rockville compares with similar communities insofar as flooding is concerned, staff noted that the City is much further advanced than most other jurisdictions. The original driving force for the City's program was the Save the Bay initiative.

Councilmember Marrinan asked where individuals would go for information on the Maryvale II and other SWM sites and how the process works. Staff noted that individuals should contact the Department of Public Works and ask for information on SWM. Public Works staff holds public meetings with residents of affected areas as the time for construction nears. One such meeting has already been held regarding the Maryvale II site.

Mayor Duncan noted that at the last meeting there were two waivers for on-site

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SWM on the agenda for approval and asked where the water from these two sites flows. Staff noted that there is no regional County facility to-date; however, there is a meeting planned regarding Rock Creek's main tributary. As to how the City's program compares to the County's, staff advised Mayor Duncan that the City is in approximately the same posture as the County. Because of the County's development potential, however, the County gets developers together to build regional facilities.

Mayor Duncan commented that County Executive Potter has proposed a stormwater tax. Staff noted that they are working closely with County staff on this issue, and the City Manager commented that information is forthcoming. It was noted that the tax would apply within the City if adopted.

As to when the City last approved an on-site facility, staff advised Mayor Duncan that it was within the last month for the County detoxification center on Avery Road. He asked whether it is the City's policy to encourage waivers or on-site SWM. Staff responded that the law provides for on-site, and only when it is in the City's best interest to grant a waiver would this be pursued. Staff also informed Mayor Duncan that there were approximately 10 on-site facilities approved in the last year. As to how much retrofit would be required, staff commented that 3/4 or 2/3 of the City was developed prior to 1978.

As to whether there is a best method of SWM, staff noted that first priority is infiltration followed by wet ponds. This priority will be reviewed to take into account quality and quantity control.

Councilmember Hovsepien noted that the City is looking at improving quality rather than focusing on quantity alone. Our proposed SWM sites will facilitate quality of SWM rather than necessarily the flow. Staff agreed, noting that in some cases we may waive quantity control and require on-site quality control.

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Mayor Duncan asked how porous asphalt works, and staff responded that it is open-graded asphalt surface through which water penetrates. It is not very effective over the long term, and there is one regional facility which uses porous asphalt.

Re: FYI/Correspondence

Construction Excise Tax

Councilmember Marrinan was advised by the City Manager that a City representative attended the County's hearing at which 13 people testified, four in favor and nine, representing the development community, in opposition. There will be a worksession on this matter on April 11, and staff will keep the Mayor and Council up-to-date.

Request to Continue Special Assessment Public Hearing

Councilmember Hovsepian asked how the Mayor and Council were going to respond to the request to defer the public hearing on the special assessment for Research Boulevard. Mayor Duncan commented that they could open the hearing that night and then continue it. The City Attorney advised that he and the City Manager would have further discussions later in the week with the attorneys requesting the continuance. Most likely, the hearing would open as scheduled and then be continued.

Re: New Business

Regarding the Rockville-Baltimore Employee Olympics on June 29, Councilmember Coyle asked if anything was made available to the public. The City Manager responded that the City would continue to promote the event and all were welcome to come observe.

Councilmember Coyle indicated he would like the City to consider establishing a Pedestrian Safety Task Force to include bicycle concerns. Discussion followed regarding referral to the Traffic and Transportation Commission, and Mayor Duncan noted that a letter should be sent to the Traffic and Transportation Commission proposing the idea of a subcommittee to review this issue.

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Councilmember Coyle advised that he will be attending the NLC's Finance and Intergovernmental Relations Steering Committee meeting in May.

Mayor Duncan noted that the recommendations of the Sprinkler Task Force should be forthcoming, and the City Manager stated that it would be on the agenda of April 22.

Re: Next Meeting - April 15, 1991

In addition to the budget presentation, public hearings are scheduled on three special assessments, two text amendments, one street closing and abandonment application and a charter amendment to stagger the terms of the Board of Supervisors of Elections.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:17 p.m., to convene again in Special Session at 7:00 p.m. on April 15, 1991, or at the call of the Mayor.